

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GARY CASTRO,
Plaintiff,

v.

CITY OF UNION CITY, et al.,
Defendants.

Case No. [14-cv-00272-MEJ](#)
and Related Case [14-cv-01796-MEJ](#)

ORDER TO SHOW CAUSE

On January 16, 2014, Plaintiff Gary Castro filed the above-titled lawsuit in this Court (the “272 Complaint”). On the same date, he filed another case in Alameda County Superior Court, which Defendants timely removed to this Court on April 18, 2014, *Gary Castro v. City of Union City, et al.*, C-14-1796 MEJ (the “1796 Complaint”). Save for the caption page and two paragraphs in the 272 Complaint that were omitted from the 1796 Complaint, these lawsuits are identical.

A district court retains broad discretion to control its docket and may exercise its discretion to dismiss a duplicative later-filed action, to stay that action pending resolution of the previously filed action, to enjoin the parties from proceeding with it, or to consolidate both actions. *Adams v. Cal. Dept. of Health Servs.*, 487 F.3d 684, 688 (9th Cir. 2007) (citations omitted). To determine whether a suit is duplicative, the Ninth Circuit borrows from the test for claim preclusion. *Id.* Under claim preclusion doctrine, the Court examines whether the causes of action and relief sought, as well as the parties or privies to the action, are the same. *Id.* at 689.

Here, Plaintiff filed nearly-identical lawsuits on the same date in this Court and in Alameda County Superior Court. Save for the cover sheet and two paragraphs that were removed from the 1796 Complaint, the lawsuits are identical. Thus, all causes of action and relief sought in

1 the 1796 Complaint are the same as those in the 272 Complaint.

2 Accordingly, the Court hereby ORDERS Plaintiff Gary Castro to show cause why the
3 1796 Complaint should not be dismissed as duplicative. Plaintiff shall file a declaration by May
4 22, 2014. If a responsive declaration is filed, the Court shall either issue an order based on the
5 declaration or conduct a hearing on June 5, 2014 at 10:00 a.m. in Courtroom B, 15th Floor, 450
6 Golden Gate Avenue, San Francisco, California. Notice is hereby provided to Plaintiff that the
7 Court may dismiss the 1796 Complaint without a hearing if no responsive declaration is filed.

8 **IT IS SO ORDERED.**

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10 Dated: May 8, 2014

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14 MARIA-ELENA JAMES
15 United States Magistrate Judge
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United States District Court
Northern District of California